REMARKS

Claims 1-26, 28-38 and 40 stand rejected under 35 USC 103(a) as being unpatentable over U.S. Patent No. 6,173,317 to Chaddha et al. (hereinafter Chaddha) and further in view of U.S. Patent No. 6,630,963 to Billmaier (hereinafter Billmaier). This rejection is respectfully traversed.

As stated previously, applicants claim methods and systems for synchronizing a program signal with a vector graphic animation movie. The claimed methods include receiving a programming signal and a vector graphic animation movie at a client device. Once the vector graphic animation movie is received, it is loaded on the client device. Finally, a command is sent from a server to the client device to synchronize the playback of the vector graphic animation movie on the client device. Accordingly, the command is sent to control the playback of the vector graphic animation movie already on the client device.

The Examiner asserts that Chaddha teaches the claimed invention except for the movie being vector graphic animation movie and the limitation of "receiving a command at the client device from a server after the vector animation movie is retrieved from the location, the command directing the vector graphic animation movie on the client device to be synchronized with the programming signal." The Examiner asserts that Billmaier teaches these features, and asserts that it would have been obvious to modify Chaddha in view of Billmaier to create the claimed invention. Applicants respectfully disagree.

The Examiner asserts that Billmaier teaches receiving a command at the client device from a server after the vector animation movie is retrieved from the location (citing to abstract and col. 9, lines 50-57). The Examiner seems to consider that the statement "after a secondary audio program is selected, it is synchronized with the video program" corresponds to receiving a command at the client device from a server after the vector animation movie is retrieved from the location. The abstract of Billmaier states that after a secondary audio program is selected, a synchronization component determines an extra transmission delay associated with the secondary audio program and a buffering program then buffers the video program for a period of time equal to the extra delay. This is not what is claimed.

Claim 1 recites receiving a command at the client device from a server after the vector animation movie is retrieved from the location, the command directing the vector graphic animation movie on the client device to be synchronized with the programming signal. First, Billmaier does not disclose that a command is received from a server after the vector animation movie is retrieved from the location. Determining a transmission delay is not the same as receiving a command from a server. Second, even if determining a transmission delay did correspond to receiving a command from the server, this so-called command does not direct the movie to be synchronized with the programming signal because, according to Billmaier, the programming signal, as it is recited in claim 1, corresponds to the television broadcast. Thus, Billmaier does not teach that which the Examiner asserts.

Further, the Examiner has stated, at pg. 4, second paragraph of the Office Action that it would have been obvious to one of ordinary skill in the art to incorporate the teachings of Billmaier to make Chaddha's system more flexible by enabling the system to use a wider range of secondary programming such as vector graphic animations. Applicants note that the Examiner has failed to provide any motivation for why one of ordinary skill in the art would have been motivation to modify Chaddha to provide the feature of "receiving a command at the client device from a server after the vector animation movie is retrieved from the location, the command directing the vector graphic animation movie on the client device to be synchronized with the programming signal." Rather, the Examiner has only provided a motivation for modifying Chaddha to provide that the movie is a vector animation movie.

Further, the Examiner's has failed to provide substantial evidence required to support an obviousness rejection even with regard to the motivation he has provided. As mentioned above, the Examiner states in the Action that one would have been motivated by Billmaier to modify Chaddha to provide that the movie is a vector animation movie because such modification would make Chaddha's system more flexible by enabling the system to use a wider range of secondary programming such as vector graphic animations. The Examiner's alleged motivation is so general in the context of the relevant art as to constitute no more than the reference to a general level of skill in the art found deficient in In re Lee, 277 F.3d 1338, 1343, 61 USPQ2d 1430, 1433 (Fed. Cir.

2002). Under Lee, the Examiner must present specific evidence of motivation, not the kind of generalized allegation of motivation relied on in the pending Action:

> When patentability turns on the question of obviousness, the search for and analysis of the prior art includes evidence relevant to the finding of whether there is a teaching, motivation, or suggestion to select and combine the references relied on as evidence of obviousness. See, e.g., McGinley v. Franklin Sports, Inc., 262 F.3d 1339, 1351-52, 60 USPQ2d 1001, 1008 (Fed. Cir. 2001) ("the central question is whether there is reason to combine [the] references," a question of fact drawing on the Graham factors).

The burden imposed by Lee is not an impossible burden, as explained by the court in In re Thrift, 298 F.3d 1357, 1364-65, 63 USPQ2d 2002, 2007 (Fed. Cir. 2002), with respect to the references relied on by the Board in that case:

> In the present case, the reasoning articulated by the Board is exactly the type of reasoning required by In re Lee. Both the examiner and the Board clearly identified a motivation to combine the references, stating that the skilled artisan would have "found it obvious to incorporate the speech input and speech recognition techniques taught by Schmandt into the expert system of Stefanopoulos in order to reduce the need for less user friendly manual keyboard and mouse click inputs." Decision on Appeal at 5; accord Aug. 7, 1996 Office Action at 3. The motivation to combine the references is present in the text of each reference. The Schmandt reference itself verifies this motivation, stating that "allowing users to remain focused on the screen and keyboard, instead of fumbling for the mouse, would be beneficial in a workstation environment." Schmandt at 51. Stefanopoulos itself, while not expressly disclosing the use of speech recognition, sets forth the motivation to combine the references, stating that "there are alternative means to select the buttons, including . . . voice-activated transfer means, which may be readily adapted for use with the present invention by those skilled in the art." '237 patent, col. 4, ll. 34-38.

The reliance in the pending Action on the alleged routine skill in the art to provide more flexibility comes nowhere close to what Lee and Thrift require. Further, the Examiner is required to point to specific evidence within Billmaier that suggests the desirability of the modification of Chaddha proposed by the Examiner. The Examiner has failed to meet this burden.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. **559442001900**.

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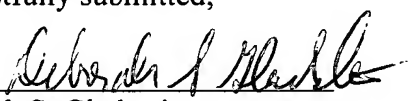
Respectfully submitted,

By 

Deborah S. Gladstein
Registration No.: 43,636
MORRISON & FOERSTER LLP
1650 Tysons Blvd, Suite 300
McLean, Virginia 22102
(703) 760-7753